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May 17, 2012

BY ECF

Hon. Sandra L. Townes  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: United States v. Afrim Kupa, et al.  
11 Cr 345 (SLT)

Dear Judge Townes:

I was asked to provide Your Honor with a copy of the June 28, 2011, tape-recording made by the government's cooperating witness, which I ordered and was going to have hand delivered to the Court if the prior copy I provided could not be located. But, instead, the government endeavored to provide a copy to the Court yesterday as a "back-door" means to make additional argument on the motion to suppress, where none was invited. I have reviewed the government's letter to Your Honor dated May 16, 2012, and this will serve as a very brief reply.

The government is acutely aware that the word "coke" is not overheard on the recording. And if the word "coke" is not heard, there is no plausible interpretation for the inclusion of the word "coke" in the affidavit other than a deliberate misstatement. Especially, where the

affidavit seeks permission to search the sanctity of an individual's home for cocaine. The affidavit did not otherwise provide the issuing Magistrate with a substantial basis to search a private residence. And, was then based upon the bare conclusions of the government's cooperating witness, who also, not coincidentally, even controlled the recording device as well.

Respectfully yours,

/JRF/

James R. Froccaro, Jr.

JRF:tp